

REMARKS

Claims 1-11, 13, 15, and 17-21 are pending in the present application. Claims 1, 2, 10, 17, and 18 have been amended herein, support for which can be found in the original claims and throughout the specification. No new matter has been added. Upon entry of the present amendment, claims 1-11, 13, 15, and 17-21 will remain pending.

The Examiner has restricted claims 1-11, 13, 15, and 17-21 into 30 groups. As a preliminary matter, it appears that Groups 1-5 are identical to Groups 6-10. In addition, the present restriction does not appear to account for all possibilities. For example, the Examiner recites in Group I that “L¹ is alkyl.” Applicants submit, however, that L¹ cannot be alkyl. Indeed, claim 1 recites that “L¹ represents a (CH₂)_pC₃₋₁₀ cycloalkyl(CH₂)_q group in which p and q are independently selected from 0 and 1 and in which the cycloalkyl group may be monocyclic or bicyclic...”. Thus, a “C₃₋₁₀ cycloalkyl” group is present no matter what p and q are. Accordingly, Applicants provisionally elect Group 2, with traverse (based on the reason that the present restriction does not make sense regarding L¹; in addition, the proposed restriction does not appear to account for a bicyclic cycloalkyl group within L¹).

To this end, Applicants have attempted to amend the claims to recite subject matter falling within the spirit of Group 2. For example, Applicants have amended the claims to no longer recite that one of the carbons in the cycloalkyl group may be replaced by O, and to no longer recite that the group L¹-N(R⁴) can represent a saturated bicyclic heterocyclic ring. In addition, Applicants have amended the claims to no longer recite that L² may also represent a 5-6 membered carbocyclic ring fused to R⁵.

Upon entry of the present amendment to claim 1, for example, the claim will recite, in part:

L¹ represents a (CH₂)_pC₃₋₁₀ cycloalkyl(CH₂)_q group in which p and q are independently selected from 0 and 1 and in which the cycloalkyl group may be monocyclic or bicyclic and optionally may be bridged provided that the two nitrogens bearing R³ and R⁴, respectively, are not linked to the same carbon atom, or, alternatively, the group -N(R³)-L¹- represent a saturated bicyclic heterocyclic ring containing from 2 to 9 carbon atoms and the nitrogen bearing R³ or R⁴ respectively;

Applicants submit that the scope of amended claim 1, as it relates to L¹, is appropriate considering the Examples (i.e., Examples 1-42 fall within the scope of amended claim 1). Restricting the monocyclic cycloalkyl group from the bicyclic cycloalkyl group within L¹ would be excessive and unwarranted.

Applicants also traverse the restriction between the compound claims and those claims reciting methods of making and methods of using the claimed compounds. The Examiner fails to provide, for example, any reasoning why a method of using a compound should be restricted from the compound itself, particularly when the scope of the compound remains the same.

Even if the Examiner still considers the groups of claims to be patentably distinct, §803 of the M.P.E.P. mandates two criteria for a proper requirement for restriction: 1) the inventions must be independent or distinct; and 2) there must be a serious burden on the examiner. For purposes of initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in M.P.E.P. §808.02. Significantly, the Examiner has not met the *prima facie* burden. Indeed, the Examiner has not shown separate status in the art or a requirement for a different field of search. Accordingly, *all pending claims* should be examined in the present application without restriction.

Applicants submit that the present response is complete and complies with the requirements of 35 U.S.C. §121.

The Commissioner is hereby authorized to debit any underpayment of fee due or credit any overpayment to Deposit Account No. 50-0436.

Respectfully submitted,

/Paul K. Legaard, Reg.# 38534/
Paul K. Legaard, Ph.D.

Date: **25 April 2008**

Pepper Hamilton LLP
400 Berwyn Park
899 Cassatt Road
Berwyn, PA 19312-1183

Telephone: 610.640.7859
Facsimile: 267.430.7647